

# Exhibit G

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Dey, Inc., et al.,*  
Civil Action No. 05-11084-PBS

Exhibit to Plaintiff's Memorandum In Support of United States' Motion  
In Limine Regarding Testimony of Raymond C. Winter and  
Sequencing of Deposition Testimony

00527

1 CAUSE NO. GV002327

2 THE STATE OF TEXAS ) IN THE DISTRICT COURT  
EX REL. )

3 VEN-A-CARE OF THE )  
FLORIDA KEYS, INC., )  
4 PLAINTIFFS, )  
)

5 VS. ) TRAVIS COUNTY, TEXAS  
)

6 DEY, INC.; ROXANE )  
LABORATORIES, INC.; WARRICK )  
7 PHARMACEUTICALS CORPORATION; )  
SCHERING-PLOUGH CORPORATION; )  
8 SCHERING CORPORATION; )  
LIPHA, S.A.; MERCK-LIPHA, S.A.; )  
9 MERCK, KGAA; AND EMD )  
PHARMACEUTICALS, INC., )  
10 DEFENDANTS. ) 53RD JUDICIAL DISTRICT

11 \*\*\*\*\*  
12 ORAL AND VIDEOTAPED DEPOSITION OF

13 CHARLES A. RICE  
VOLUME III

14 MARCH 24TH, 2003  
\*\*\*\*\*  
15 ORAL AND VIDEOTAPED DEPOSITION OF

16 CHARLES A. RICE, PRODUCED AS A WITNESS AT THE INSTANCE  
17 OF THE STATE OF TEXAS AND DULY SWORN, WAS TAKEN IN THE  
18 ABOVE-STYLED AND NUMBERED CAUSE ON THE 24TH OF MARCH,  
19 2003, FROM 8:11 A.M. TO 6:08 P.M., BEFORE  
20 DEBRA L. SIETSMA, CSR IN AND FOR THE STATE OF TEXAS,  
21 REPORTED BY MACHINE SHORTHAND, AT THE OFFICES OF  
22 FLECKMAN & MCGLYNN, P.L.L.C., 515 CONGRESS,  
23 SUITE 1800, AUSTIN, TEXAS, PURSUANT TO THE TEXAS RULES  
24 OF CIVIL PROCEDURE AND THE PROVISIONS AS PREVIOUSLY  
25 SET FORTH.

00528

1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFF, STATE OF TEXAS:

4 MR. PATRICK J. O'CONNELL,  
5 MR. RAYMOND C. WINTER  
6 OFFICE OF THE ATTORNEY GENERAL  
7 STATE OF TEXAS  
8 POST OFFICE BOX 12548  
9 AUSTIN, TEXAS 78711-2548

7

FOR THE RELATOR, VEN-A-CARE OF THE FLORIDA KEYS, INC.:

8

9 MR. JAMES JOSEPH BREEN  
10 THE BREEN LAW FIRM, P.A.  
11 P.O. BOX 297470  
12 PEMBROKE PINES, FLORIDA 33029-7470

11 - AND -

12 MR. JOHN E. CLARK (OF COUNSEL)  
13 GOODE CASSEB JONES RIKLIN  
14 CHOATE & WATSON, P.C.  
15 2122 NORTH MAIN AVENUE  
16 P.O. BOX 120480  
17 SAN ANTONIO, TEXAS 78212-9680

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FOR DEFENDANT DEY, INC.:

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17 MR. STEPHEN M. HUDSPETH  
18 MR. DARRELL PRESCOTT  
19 COUDERT BROTHERS  
20 1114 AVENUE OF THE AMERICAS  
21 NEW YORK, NEW YORK 10036-7703

19

- AND -

20

21 MR. STEVEN A. FLECKMAN  
22 FLECKMAN & MCGLYNN, P.L.L.C.  
23 515 CONGRESS AVENUE, SUITE 1800  
24 AUSTIN, TEXAS 78701-3503

23

24

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00529

1 FOR DEFENDANT ROXANE LABORATORIES, INC.:

2 MR. R. ERIC HAGENSWOLD  
MR. STEVEN J. WINGARD  
3 SCOTT, DOUGLASS & MCCONNICO, L.L.P.  
ONE AMERICAN CENTER, FIFTEENTH FLOOR  
4 600 CONGRESS AVENUE  
AUSTIN, TEXAS 78701

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FOR DEFENDANTS WARRICK PHARMACEUTICALS CORPORATION,  
6 SCHERING-PLOUGH CORPORATION AND SCHERING CORPORATION:

7 MR. C. MICHAEL MOORE  
LOCKE LIDDELL & SAPP, L.L.P.  
8 2200 ROSS AVENUE, SUITE 2200  
DALLAS, TEXAS 75201-6776

9  
FOR THE UNITED STATES DEPARTMENT OF JUSTICE:

10  
MR. ANDY J. MAO  
11 TRIAL ATTORNEY, CIVIL DIVISION  
P.O. BOX 261  
12 BEN FRANKLIN STATION  
WASHINGTON, DC 20044

13  
ALSO PRESENT:  
14 MR. ZACHARY TAYLOR BENTLEY, II  
MR. BRIAN BOBBITT, VIDEOGRAPHER  
15

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00760

1 Q. THIS IS THE UNIT-DOSE ALBUTEROL, CORRECT?

2 A. NO, SIR. THIS IS MULTIDOSE.

3 Q. THIS IS MULTIDOSE. I'M SORRY.

4 A. YES, SIR.

5 Q. OKAY. HAVE YOU EVER SEEN THIS DOCUMENT

6 BEFORE?

7 A. I DON'T THINK I DID.

8 Q. WELL, IF YOU LOOK AT THE SECOND PARAGRAPH,

9 YOU'LL SEE IN THE MIDDLE HE SAYS, "IN ADDITION, WE

10 INCLUDED THE MULTIDOSE TO UNIT-DOSE CONVERSION REPRINT

11 AND WORKSHEET AND A RETAIL PROFIT GAIN WORKSHEET. WE

12 USED BOTH SUCCESSFULLY LAST YEAR. REFAMILIARIZE

13 YOURSELVES WITH THESE TWO PIECES SO THAT THEY CAN WORK

14 TO YOUR ADVANTAGE AGAIN. THESE PIECES SHOULD

15 REINFORCE THE IMPORTANCE OF OUR UNIT-DOSE BUSINESS AND

16 ALSO HELP YOU STRATEGIZE WHERE TO PICK UP MULTIDOSE

17 BUSINESS. LET US NOT FORGET THAT UNIT DOSE SHOULD

18 REMAIN OUR TOP PRIORITY," AND THAT'S UNDERLINED.

19 DO YOU SEE THAT?

20 A. YES, SIR, I SEE IT.

21 Q. AND THEN IF YOU'LL GO TO THE -- ABOUT HALFWAY

22 THROUGH THE STACK, AND IT'S BATES-STAMPED

23 DL-TX-0076254, YOU'LL SEE A COPY OF THE REIMBURSEMENT

24 COMPARISON WORKSHEET --

25 A. YES, SIR. THAT'S MARKED HERE.

00761

1 Q. -- THAT MR. GALLES IS REFERRING TO IN THE  
2 MEMO ON FRONT.

3 DO YOU SEE THAT?

4 A. YES, SIR.

5 Q. NOW, WAS MR. GALLES INFORMING YOUR SALES  
6 REPRESENTATIVES AND YOUR MARKETING REPRESENTATIVES  
7 ABOUT DEY'S MARKETING AND SALES POLICIES IN THIS  
8 MEMORANDUM?

9 A. AGAIN, MARKETING AND SALES POLICIES WE HAVE  
10 VERY, VERY FEW OF. I DON'T SEE ANYTHING HERE THAT WAS  
11 RELATED TO POLICY.

12 Q. OKAY. WELL, WHAT IS THIS RELATED TO, FROM  
13 YOUR PERSPECTIVE AS THE PRESIDENT?

14 A. THIS IS A MINI MARKETING PLAN, AND IT APPEARS  
15 TO INCLUDE THE -- THE SUSPECT UNIT-DOSE CONVERSION AND  
16 THE RETAIL PROFIT GAIN WORKSHEETS WHICH WE'VE TALKED  
17 ABOUT ON PREVIOUS OCCASIONS.

18 Q. OKAY. AND THIS IS THE REIMBURSEMENT  
19 COMPARISON WORKSHEET THAT YOU WOULD NOT HAVE CONDONED  
20 THE USE OF?

21 A. ABSOLUTELY NOT. I WOULD NOT HAVE CONDONED  
22 IT.

23 Q. ARE YOU AWARE THAT -- THAT -- THAT ROBERT  
24 MOZAK TESTIFIED THAT THIS IS THE VERY TYPE OF PLAN  
25 THAT WOULD HAVE BEEN IMPLEMENTED ONLY IF YOU APPROVED

00762

1 IT?

2 MR. FLECKMAN: OBJECTION, FORM.

3 THE WITNESS: NO, SIR, I'M NOT AWARE

4 THAT HE TESTIFIED TO THAT.

5 Q. (BY MR. BREEN) DID YOU APPROVE MR. GALLES'

6 ARTICULATION OF THE MINI MARKETING PLAN DATED

7 MARCH 4TH, 1996?

8 A. I'M NOT AWARE THAT I APPROVED IT. I'M NOT

9 AWARE THAT I EVEN SAW IT WHEN IT WENT INTO EFFECT.

10 Q. WELL, YOU KNEW TODD GALLES, CORRECT?

11 A. YES, SIR.

12 Q. BRUCE TIPTON?

13 A. YES, SIR.

14 Q. RICK UPP?

15 A. YES, SIR.

16 Q. ROSS UHL?

17 A. YES, SIR.

18 Q. AND BOB MOZAK?

19 A. THAT'S CORRECT. I DID KNOW ALL OF THOSE

20 PEOPLE.

21 Q. AND WOULD YOU HAVE REASON TO BE DOUBT THE

22 TRUTHFULNESS OF ANY OF THOSE PEOPLE?

23 MR. FLECKMAN: OBJECTION, FORM.

24 THE WITNESS: THAT'S A DIFFICULT

25 QUESTION TO ASK.

00763

1 MR. BREEN: ALL RIGHT. WELL, LET ME --

2 LET ME WITHDRAW THE QUESTION. IT'S NOT A -- LET ME

3 JUST ASK -- ASK THIS QUESTION.

4 Q. (BY MR. BREEN) IF EACH OF THOSE INDIVIDUALS

5 WERE -- WERE TO TESTIFY THAT YOU APPROVED THE

6 MULTIDOSE TO UNIT-DOSE CONVERSION MARKETING THROUGH

7 THIS REIMBURSEMENT COMPARISON, WOULD YOU DISAGREE WITH

8 THAT?

9 A. YES, SIR.

10 Q. THEN HOW COULD DEY'S SALESPeOPLE HAVE BEEN

11 USING THIS REIMBURSEMENT CONVERSION WORKSHEET, TRYING

12 TO CONVINCE CUSTOMERS TO BUY DEY'S UNIT DOSE RATHER

13 THAN WARRICK'S MULTIDOSE BASED UPON REIMBURSEMENT

14 SPREAD OVER AND OVER AGAIN IF YOU, AS THE PRESIDENT,

15 WERE TOTALLY UNAWARE OF IT?

16 MR. FLECKMAN: OBJECTION, FORM.

17 THE WITNESS: I DON'T THINK THE

18 PRESIDENCY OF -- OF THE COMPANY CAN BE AWARE OF

19 EVERYTHING THAT GOES ON IN THE COMPANY. I'D LIKE TO

20 THINK THAT THEY COULD, BUT I CAN TELL YOU THAT I

21 DIDN'T APPROVE OF THIS PROCESS. I WOULD NOT CONDONE

22 IT, AND I WOULD NOT CONDONE IT TODAY.

23 MR. BREEN: OKAY. ALL RIGHT. WE'VE GOT

24 TO CHANGE A TAPE IN A FEW MINUTES. WE'VE BEEN GOING

25 FOR A WHILE. DO YOU WANT TO TAKE THAT BREAK, BECAUSE